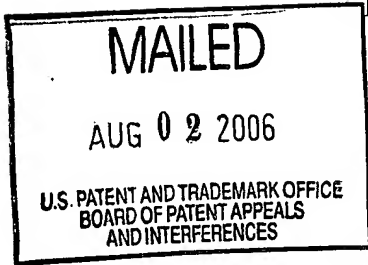


UNITED STATES PATENT AND TRADEMARK OFFICE



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CHRISTOPHER M. JAKUBIEC

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Application 10/057,259

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on August 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that appellant filed an Appeal Brief on April 4, 2006. In response, an Examiner's Answer was mailed May 2, 2006.

Section § 1207.02 of the Manual of Patent Examining Procedure

(MPEP) (8<sup>th</sup> Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

(1) Real Party in Interest. A statement acknowledging that the brief has identified by name the real party in interest.

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal" [page 2 under the caption "Evidence Relied Upon"], the claim rejection is listed as follows:

1. Claims 1-43 are rejected under 35 U.S.C. 102(3) as being anticipated by Eden (U.S. Patent Publication 2002/0184361) [page 3].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for submission of a revised Examiner's Answer which adds the "Real Party in Interest" section and corrects the "Evidence Relied Upon" section; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
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Deputy Chief Appeal Administrator  
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